

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SBC Pacific
Bell Telephone Company (U 1001 C), a
Corporation, for Authority to Categorize Local
DA Service as a Category III Service.

Application 02-07-050
(Filed July 31, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING NOTICE OF INTENT TO CLAIM COMPENSATION**

This ruling responds to a notice of intent (NOI) filed by The Utility Reform Network (TURN) on December 19, 2002. This ruling addresses the requirements of the Pub. Util. Code, Article 5, § 1804. All statutory references are to the Pub. Util. Code. In consultation with the Assigned Commissioner, I find that TURN is eligible to request compensation in this proceeding.

Under § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” The first prehearing conference (PHC) in this proceeding was held on November 19, 2002. TURN’s NOI was filed on December 19, 2002 and thus is timely filed.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b) and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is

authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied. TURN’s Articles of Incorporation specifically authorize it represent the interests of residential customer and TURN therefore meets the requirements of the third definition of customer.

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. TURN makes its showing of significant financial hardship at this time. Section 1802(g) defines “significant financial hardship:”

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

TURN meets the latter definition of customer as defined in § 1802(b), thus the comparison standard applies.¹ Given the estimated cost of \$67,500 to participate in this hearing, as set out in detail below, it would be economically infeasible for any individual ratepayer to participate effectively in this hearing,

¹ TURN indicates that it has approximately 30,000 individual members who are residential or small business customers of SBC Pacific Bell.

nor is there reason to believe that any individual ratepayer is prepared to do so. While the Commission's Office of Ratepayer Advocates (ORA) represents and must balance the interests of all ratepayers, TURN represents the specific interests described above, residential ratepayers and small business customers who may not otherwise be adequately represented in this proceeding. Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

A rebuttable presumption of eligibility exists for TURN. In well over a dozen prior proceedings, the Commission has qualified TURN as an organization representing individual residential ratepayers. TURN has been so qualified in every year since 1986, when the intervenor compensation rules were adopted. As additional support for its current request for eligibility determination, TURN has included financial information in the NOI to demonstrate that intervenor compensation is a necessary part of its budget and an essential condition to continued effective representation of its individual members. That information discloses that approximately 44% of TURN's total income is made up of intervenor compensation awards and that other sources of income, primarily contributions, have declined in recent years. In addition, the cost of TURN's participation in Commission proceedings substantially outweighs the benefit to any individual customer it represents. Based upon the foregoing submission, I find that TURN has met the test of significant financial hardship. However, a finding of significant financial hardship in no way ensures compensation (§ 1804(b)(2)).

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. TURN estimates that effective participation will require 10 hours of the time of Supervising Attorney Robert Finkelstein at a proposed hourly rate of \$350; 150 hours of the time of Staff Attorney Christine Mailloux at a proposed hourly rate of \$275; and 100 hours of Research Analyst Regina Costa's time at a proposed hourly rate of \$200, together with estimated expenses of \$2,750 for a total estimated budget of \$67,500 for this case. TURN states that it will continue to coordinate its efforts with the Office of Ratepayer Advocates and other intervenors in order to minimize duplication of effort.

Therefore, **IT IS RULED** that:

1. The Utility Reform Network (TURN) has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it establish significant financial hardship, and TURN is found eligible for compensation in this proceeding.
2. TURN is a customer as that term is defined in § 1802(b) and is authorized by its Articles of Incorporation to represent the interests of residential customers.
3. A finding of eligibility in no way assures compensation.
4. TURN shall make every effort to reduce and avoid duplication of contribution.

Dated March 25, 2003, at San Francisco, California.

/s/ Karl J. Bemesderfer
Karl J. Bemesderfer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated March 25, 2003, at San Francisco, California.

/s/ Antonina V. Swansen

Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

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